



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,480	01/06/2004	Masaya Ohiro	2038-315	3553

22429 7590 12/30/2005

LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA, VA 22314

EXAMINER

GRAY, LINDA L

ART UNIT	PAPER NUMBER
	1734

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/751,480	OHIRO ET AL.
	Examiner	Art Unit
	Linda L. Gray	1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 September 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 12-21 is/are allowed.
- 6) Claim(s) 1-3, 6 and 7 is/are rejected.
- 7) Claim(s) 4-5 and 8-11 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>filed 10-26-05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

Detailed Action

Claim Rejections - 35 USC 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. **Claims 1-3 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernfors (US 6,328,725 B2) in view of Laplanche (US 4,237,890) or Kozak (US 3,874,386).**

Claim 1, Fernfors teaches feeding continuous web 1 in a traverse direction where Figure 1 demonstrates that web 1 includes a plurality of backing sheets which defining a garment facing surface and separated at line 3. The sheets each have a pair of side edges at line 3.

Fernfors feeds fastener members 8 to web 1 and bonds members 8 to the garment facing surface of one of a front and rear waist region of the sheets so that members 8 straddle the edges. Members 8 are bonded with an adhesive which would be on the bottom surface. Then web 1 is cut with members 8 along the edges. Members 8 are shown as having a traverse middle and longitudinally opposite ends.

See Figure 3 of Fernfors where the product made is diaper having a wearer's body facing surface and the garment facing surface, front and rear ends in the transverse direction, the side edges in a longitudinal direction, the front waist region, the rear waist region, a crotch region between the waist regions, members 8 on the garment facing surface near one of the waist regions in the area of the edges.

Claim 1, Fernfors does not teach members 8 to be folded at both ends in a z-shape or inverted z-shape with top and bottom sections coated on the under surface with the adhesive.

However, such fastener members are conventional in the diaper art as demonstrated by Laplanche and Kozak each teach a diaper fastener member folded at both ends in a z-shape with

top and bottom sections coated on the under surface with and adhesive where the bottom surface is bonded to the waist regions of the diapers.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Fernfors that members 8 be, instead, folded at both ends in a z-shape or inverted z-shape with top and bottom sections coated on the under surface with the adhesive because such fastener members are conventional in the diaper art as demonstrated by Laplanche and Kozak and it is obvious to replace one fastener with another art recognized alternative fastener used in the same art.

Claim 2, Fernfors teaches web 1 includes impervious back sheet 28 overlaid with a pervious top sheet 28 which is continuous in the transverse direction and forms the wearer's body facing surface. There is also provided liquid-absorbent core 4 arranged intermittently in the feeding direction of sheets 28 and therebetween sheets 28. **Claim 3**, impervious back sheet 28 defines the garment facing surface of the diaper which can be opened and then closed again via members 8. **Claims 6-7**, see Laplanche (Fig 1) demonstrating middle section 4 between the top and bottom sections which is integral with and connects with the top and bottom sections. Also, see middle section 14 of Kozak at Figure 2 which is between the top and bottom sections and is integral with and connections with the top and bottom sections.

Allowable Subject Matter

3. Claims 4-5 and 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 12-20 and 21 are allowed.

4. The following is a statement of reasons for the indication of allowable subject matter:

claims 4 and 21, Fernfors teaches that web 1 is destined to be both the garment and wearer's facing surfaces of the diaper which is in pant form when worn. Web 1 is folded back along a line bisecting a vertical dimension of web 1 (Fig 1 to Fig 2) so that a region of web 1 that forms the front waist region and that forms the rear waist region are directly overlaid. Folded web 1 is joined together at zones 16 of the edges of the diaper. However, Fernfors does not teach that after folding and joining, members 8 are applied in that Fernfors teaches bonding member 8 prior to folding where members 8 are also joined at 16 (Fig 5) where bonding members 8 after folding

Art Unit: 1734

and bonding at 16 would eliminate members 8 from being part of the bonding at 16 and thus destroy the process and product taught by Fernfors;

claim 8: Fernfors in view of Laplanche or Kozak teach that adhesive 5 of Laplanche and adhesive 22 of Kozak releasably bonds the top section to the middle section at a first end of the middle section but does not teach that adhesive 5 of Laplanche and adhesive 22 of Kozak permanently bonds the top section to the middle section at an end of the middle section opposite the first end and such would not have been obvious to a person of ordinary skill in the art at the time the invention was made because Laplanche and Kozak specifically require adhesives 5 and 22, respectively, to be releasable along the entire contacting surface and not permanent;

claim 11: Fernfors does not teach that bonding members 8 to web 1 includes permanently bonding members 8 to web 1 and it would not have been obvious to a person of ordinary skill in the art at the time the invention was made to have provide for such in Fernfors because Fernfors specifically requires releasability between members 8 and web 1 at column 3, lines 56, to column 4, line 13; and

claim 12: Fernfors does not each simultaneously cutting web 1 and members 8 in that web 1 is cut first then members 8 are cut (c 5, L 9-58). It would not have been obvious to a person of ordinary skill in the art at the time the invention was made to have cut web 1 and members 8 simultaneously in the method of Fernfors because teaches specifically members 8 are not cut when web 1 is cut so as to provide a free zone members 8 and the adjacent separated edges where members 8 can then be joined to other members across the free zone (abstract; claim 1).

5. As allowable subject matter has been indicated, Applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See CFR 1.111(b) and MPEP 707.07(a).

Response to Applicant's Comments

6. Applicant's comments filed 9-28-05 have been fully considered. *Applicants indicate that Fernfors does not teach cutting web 1 and the tape fasteners together as recited in claim 1.* In response, claim 1 does not require simultaneous cutting of the web 1 and tape fasteners. Use of "cutting said web together with said tape fastener members" (claim 1, last two lines) reads on cutting the web and tape fasteners in the same process of making the diaper but not necessarily simultaneously.

Applicant indicates that Laplanche and Kozak do not teach that middle portions 4 and 14, respectively, is made integrally and connects with the top and bottom sections, as recited in claims 6-7. In response, see Figures 1 and 2 and Laplanche and Kozak, respectively, where middle sections 4 and 14 are continuous with the top and bottom sections – integral with and connects with – the top and bottom sections.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda L. Gray whose telephone number is (571) 272-1228. The examiner can normally be reached on Monday-Friday, 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg *llg*
December 27, 2005

Linda L. Gray
LINDA GRAY
PRIMARY EXAMINER